

FISCAL NOTE

Bill #: HB0636

Title: Amending statutes governing ballot measures, etc.

Primary Sponsor: Chase Hibbard

Status: First reading, as amended, in State Administration Committee

Sponsor signature	Date	Dave Lewis, Budget Director	Date
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Fiscal Summary

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
Expenditures:		
General Fund	214,880	

Revenue:

Net Impact on General Fund Balance: (\$214,880)

<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>	
	X	Significant Local Gov. Impact		X	Technical Concerns
	X	Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

Attorney General

1. The Attorney General (A.G.) reviews an average of 15 to 20 initiative and referendum petitions during each general election cycle.
2. Under current law 13-27-313(7)), MCA, the A.G. has 21 days from the time of receipt within which to act on an initiative or referendum petition. Currently, the petitions are reviewed as to form and the A.G. prepares statements of purpose, implication, and fiscal impact. No determination is made regarding the constitutionality or legal validity of the measure.
3. The bill imposes several new responsibilities on the Department of Justice. First, the amendments to MCA 13-27-312 would require the A.G. review to include a review of the substance of the petition for constitutionality or legal validity. This bill also adds a public comment process in the preparation of ballot statements by the A.G.

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4. It is assumed that the majority of petitions would be legally sufficient and require little review to determine their validity for placement on the ballot. It is estimated that approximately six per election cycle would require thorough research and analysis to determine their validity. The research would be conducted by staff of the Legal Services Division.
5. Because the window of time for submission and circulation of initiative and referendum petitions is relatively short under the law, there are frequently numerous petitions being reviewed by the A.G. staff within a very short time frame. Currently, one staff attorney performs all of the reviews. However, if a review of the legality of each petition is required, it would be impossible for one staff attorney to complete such reviews within a sufficient time to allow circulation of petitions. Consequently, contracted legal services would be obtained from the A.G. Agency Legal Services Bureau to assist with the legal work necessitated by the bill.
6. It is extremely difficult to estimate the amount of time that would be needed on each petition to conduct a thorough review of legal validity. The time would depend upon the subject matter and complexity of the measure. For example, the principal attorney assigned to defend the CI-75 litigation spent approximately 160 hours researching and preparing the state's opening brief in the case. However, it is assumed that most petitions could be researched and reviewed in an average of 60 hours. Assuming that six petitions per general election cycle are submitted that require thorough legal research, the A.G. would require \$22,320 in contracted legal services from Agency Legal Services Bureau (360 hours at \$62 per hour).
7. As amended, the bill provides both a "technical" and "legal" review by the A. G.. These reviews must be completed within the 51-day time period following submission of the petition, and presumably two statements will be issued – one on the "technical" (HB508) determination and one on the more expansive "legal" issues. The second statement will be placed on the petition and, assuming it is approved as to form, circulation for signatures may begin. Meanwhile, there will be opportunity for either proponents or opponents of the measure to challenge the "technical" sufficiency review. It is our experience with initiatives that challenges are brought frequently, so we assume any determination of technical deficiency and most determinations of technical sufficiency will be challenged. The A. G.'s office will have to defend that challenge in court, which will require preparation of legal briefs and other court pleadings.
8. The extra time required by the amended version of HB 636 will amount to another 60 hours per petition for petitions that are challenged in court. Again, as stated in assumption 6, we assume that six petitions per election cycle will be challenged. The Agency Legal Services Bureau would be contracted to perform the work at a cost of \$22,320 ($60 \times 6 \times \$62/\text{hour} = 22,320$). The total cost in FY 2000 would be \$44,640.
9. The appropriation for legal sufficiency review would only be required for the first year of each biennium, since initiative petitions are only voted on in general elections and must be submitted prior to mid-July of each general election year (MCA 13-1-101(12), 13-27-104). Under HB 636, the petitions will be required to be submitted well before the end of the first year of the biennium.

Secretary of State

10. The Secretary of State (SoS) will be required to publish a notice of draft statements of purpose, statements of implication and the fiscal statement of every proposed petition, in addition to information on the time, date and place of the SoS public hearing. The statement of purpose is 250 words, the statements of implication are 200 words, the fiscal statement is 50 words, the text average length is 1,125 words, and the SoS information is estimated to be 200 words. The total words are 1900 which equal 19 folios.
11. The cost per folio in 1998 was \$8.00. There are 70 papers in which this information will be published.
$$[(250+200+50+1125+275)/100] * 8.00 * 70 = \$10,640.$$
12. The fluctuation of petitions that SoS receives is vast. In 1998 there were 14 petitions filed with the SoS; however, that number has been as high as 29 in 1988. For purposes of this fiscal note, there will be 16 petitions filed with the SoS in FY 2000.

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13. The SoS does not have proprietary revenue to match these costs so general fund will be required.

Legislative Services Division

14. Legislative Fiscal Division (LFD) work activities would be reprioritized to meet the deadlines contained in the bill. Lowest priority work activities may not be completed.

15. The additional workload for the LFD would be absorbed within present FTE levels.

FISCAL IMPACT:

	<u>FY2000</u>	<u>FY2001</u>
Attorney General	<u>Difference</u>	<u>Difference</u>
<u>Expenditures:</u>		
Operating Expenses	\$44,640	
<u>Funding:</u>		
General Fund (01)	\$44,640	
<u>Revenues:</u>	0	
Secretary of State		
<u>Expenditures:</u>		
Operating Expenses	\$170,240	
<u>Funding:</u>		
General Fund	\$170,240	
<u>Revenues:</u>	0	
<u>Net Impact to Fund Balance (Revenue minus Expenditure):</u>		
General Fund (01)	(\$214,880)	